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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,389	02/05/2004	BRANDI LOUCKS	29939/03004A	6345
4743 7590 01/08/2009 MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606				
EXAMINER				
BRADEN, SHAWN M				
ART UNIT		PAPER NUMBER		
3781				
MAIL DATE		DELIVERY MODE		
01/08/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/773,389

**Applicant(s)**

LOUCKS ET AL.

**Examiner**

SHAWN M. BRADEN

**Art Unit**

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF 298)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delouvre in view of Willat (US Pub no 2004/0217555).

With respect to claim 8, Delouvre clearly shows a bottom panel having a perimeter; a contiguous side wall extending generally upward from the perimeter of the bottom panel and terminating at an upper end; a basket interior defined above the bottom panel and bounded by the side wall; a curved wall section of the side wall that is curved concavely inward toward the basket interior, the bottom panel and contiguous side wall including the curved wall section being formed of a primary material; and a cushion pad positioned generally at the upper end of the curved wall section, the cushion pad (clearly shown in fig. 2 the darker cushion covering the handle on the curved in wall) being formed from a secondary (the different coloring infers different material).

However Delouvre does not disclose handle grip being formed from a material that is softer than the primary material of the basket.

Willat teaches a handle grip being formed from a material that is softer than the primary material of the basket (figs 1-67) in the same field of endeavor for the purpose of having a comfortable ergonomic grip.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the cushions shown in Delouvre with the cushion shown in Delouvre in order to add comfort and grip .

2. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Delouvre in view of Willat in further view of Brightbill (US Des 362,931) .

Delouvre in view of Willat as applied above discloses the invention substantially as claimed. However Delouvre in view of Willat does not disclose a second inwardly curved wall section formed on one of the pair of end sections.

Brightbill teaches a second inwardly curved wall section formed on one of the pair of end sections (fig. 3) in the same field of endeavor for the purpose of strengthen the rim of a laundry basket.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add a second inwardly curved wall section formed on one of the pair of end sections as taught by Brightbill to the basket of Delouvre in view of Willat in order to have a strong rim on a laundry basket.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Delouvre in view of Willat in view of Brightbill (US Des 362,931) .

Delouvre in view of Willat as applied above discloses the invention substantially as claimed. However Delouvre in view of Willat does not disclose a second inwardly curved wall.

Brightbill teaches a second inwardly curved sidewall clearly shown in fig. 3 in the same field of endeavor for the purpose of having a comfortable shape.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add a second inwardly curved sidewall as taught by Brightbill in order to have a comfortable gripping area to better hold onto the laundry basket.

***Response to Arguments***

Applicant's arguments filed 09/30/2008 have been fully considered but they are not persuasive. In response to applicant argument on claim 8 and the depending claims, "The primary Delouvre reference contains no suggestion whatsoever of a recess that receives a cushion pad, nor does the secondary Willat reference suggest such a pad".

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). For further clarification applicant's "recess" is very broad and Delouvre's fig. 2 shows a hole that meets the recitation and fig. 3 shows the indented wall which also meets the recitation of a recess.

***Claim Rejections - 35 USC § 103***

3. Claims 12-22, and 4-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craft (Des 343,711) in view of Willet (US Pub No. 2004/0217555).

Craft (fig. 1-3) discloses the invention substantially as claimed. However Craft does not disclose a cushion pad formed of a secondary material.

Willet teaches adding a grip material to various surfaces (in particular see 28 for padding on handles, and figs. 62-66 for padding on recessed surfaces) in the same field of endeavor for the purpose of adding friction and comfort to grasping area of various surfaces.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add gripping material to the handles and arched rim along the curved wall in order to add comfort, grip and style.

***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **SHAWN M. BRADEN** whose telephone number is (571)272-8026. The examiner can normally be reached on **Mon-Friday 9-6:30 est**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. M. B./  
Examiner, Art Unit 3781

/Anthony D Stashick/  
Anthony D Stashick  
Supervisory Patent Examiner, Art Unit 3781